

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HOWARD,

Petitioner,

- against -

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#: _____
DATE FILED: 2/25/2021

1:19-cv-06645-ALC
ORDER OF DISMISSAL

PETRUCCI,

Respondent.

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ANDREW L. CARTER, JR., United States District Judge:

Petitioner Mark Howard initiated this petition against James Petrucci, as acting Warden of FCI Otisville, to challenge the conditions of his detention at that facility. Specifically, Howard alleges that he was improperly restricted from using the Bureau of Prison's TRULINC email system while detained at Otisville. As remedy, Howard seeks injunctive relief in the form of a writ directing Petrucci to reinstate his access to email during his sentence.

However, the Board of Prisons Inmate Lookup indicates that since the filing of the petition Howard was transferred from FCI Otisville to Fairton FCI. "It is settled in this Circuit that a transfer from a prison facility moots an action for injunctive relief against the transferring facility." *Prins v. Coughlin*, 76 F.3d 504, 506 (2d Cir. 1996) (citations omitted); *see also McCray v. Lee*, 963 F.3d 110, 117 (2d Cir. 2020); *Thompson v. Choinski*, 525 F.3d 205, 209 (2d Cir. 2008).

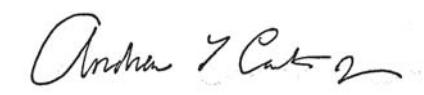
Accordingly, on December 29, 2020, the Court issued an Order to Show Cause ordering Petitioner Howard to show why this case should not be dismissed as moot in light of his transfer from FCI Otisville to Fairton FCI. ECF No. 11. Any response was to be made in writing by February 17, 2021. The Government filed a timely response in which it agreed that the matter was moot and should be dismissed. ECF No. 13. To date, Petitioner Howard has made no response.

Because Petitioner Howard seeks only injunctive relief as to conditions at Otisville and has been transferred to a new facility, the Court concludes this matter is moot. This case is therefore DISMISSED. The Clerk of Court is respectfully directed to close this case. Respondent is ORDERED to serve this Order of Dismissal on Petitioner and file proof of service by March 11, 2021.

SO ORDERED.

Dated: New York, New York

February 25, 2021



ANDREW L. CARTER, JR.
United States District Judge